

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

MICHAEL BRUCE BYNOE,

Petitioner,

vs.

HELLING,

Respondent.

3:07-cv-00009-LRH-VPC

ORDER

Petitioner is proceeding with counsel in this petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. On September 23, 2009, the court entered judgment for respondents. On October 23, 2009, petitioner filed a notice of appeal and a motion for a certificate of appealability. (Docket #44.)

In order to proceed with his appeal, petitioner must receive a certificate of appealability. 28 U.S.C. § 2253(c)(1); Fed. R. App. P. 22; 9th Cir. R. 22-1; *Allen v. Ornoski*, 435 F.3d 946, 950-951 (9th Cir. 2006); *see also United States v. Mikels*, 236 F.3d 550, 551-52 (9th Cir. 2001). Generally, a petitioner must make “a substantial showing of the denial of a constitutional right” to warrant a certificate of appealability. *Id.*; 28 U.S.C. § 2253(c)(2); *Slack v. McDaniel*, 529 U.S. 473, 483-84 (2000). “The petitioner must demonstrate that reasonable jurists would find the district court’s assessment of the constitutional claims debatable or wrong.” *Id.* (*quoting Slack*, 529 U.S. at 484). In order to meet this threshold inquiry, the petitioner has the burden of demonstrating that the issues are debatable among jurists of reason; that a court could resolve the issues differently; or that the questions are adequate to deserve encouragement to proceed further. *Id.*

1 This court has considered the issues raised by petitioner with respect to whether they satisfy
2 the standard for issuance of a certificate of appealability, and determines that none meet that
3 standard.

4 **IT IS THEREFORE ORDERED** petitioner's motion for a certificate of appealability is
5 **DENIED.** (Docket #44.)

6 DATED this 29th day of October, 2009.



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9 LARRY R. HICKS
UNITED STATES DISTRICT JUDGE